

Frontline Answers May 2013

1. What does Emeritus think of the jury verdict in the Joan Boice case?

We were extremely disappointed that this jury found our care of Mrs. Boice unsatisfactory and we adamantly disagree with the outcome of this trial. Our dedicated and hard-working caregivers provided her with quality care during the three months she lived with us. Unfortunately, nine weeks of inflammatory rhetoric at the trial made it difficult for the jury to see through to the facts of this case. This dynamic was glaringly evident by the fact that not one — not a single one — of the 34 non-Emeritus caregivers who treated or was otherwise involved in the care of Mrs. Boice ever reported any instance of suspected abuse or neglect to state authorities, despite the fact that California law requires such reporting.

Even more telling, plaintiff's own medical expert Dr. Kathryn Locatell reviewed Mrs. Boice's medical records shortly after she moved out of the Emerald Hills community, months prior to her death. Dr. Locatell did not report elder abuse, even though she was professionally obligated to do so if she truly believed that abuse had occurred. Instead, Dr. Locatell waited for years until the multi-million lawsuit was well underway to ever make a public allegation of elder abuse. Dr. Locatell, who was well compensated for her testimony, was in fact the only physician who alleged that Mrs. Boice had been a victim of abuse.

What's important to keep in mind in this case is the fact that Mrs. Boice was suffering from end-stage Alzheimer's, coupled with a series of strokes. Mrs. Boice's life expectancy was severely limited by these conditions and other co-morbidities, including skin breakdown and loss of ability to swallow, that resulted in a terminal medical condition known as failure to thrive. Mrs. Boice's ultimate cause of death was heart failure and stroke.

Unfortunately, the result of this trial reflects a continuing culture of suspect plaintiff lawsuits that undermine the value and commitment that senior living companies like ours deliver to thousands of residents and families across the country.

2. Will the company appeal the verdict? If so, on what grounds?

Yes. Emeritus will appeal. The verdict was tainted by the admission of improper testimony and evidence and does not reflect the care that we provided to Mrs. Boice.

In its post-trial motions and on appeal, Emeritus will challenge, among other important issues, the irrelevant and inflammatory evidence that led to an unconstitutional and unsupported punitive damages verdict. We look forward to bringing this matter before the appellate courts in California to prevent similar outcomes in future cases.

3. During the trial, former Emeritus employees testified that Budgie Amparo directed them to violate California law by admitting seniors who lacked an MD's evaluation, or LIC 602 form. California regulators substantiated this allegation during a complaint investigation at the company's facility in Tracy. How does the

company respond to their finding that Emeritus instructed employees to break California law?

This finding is not supported by the evidence. Neither Budgie Amparo nor any of our other officers issued a directive to violate Title 22 or any other law. Emeritus does not condone allowing residents to move in without the proper documents. It is important to note, however, that there is a provision of California law allowing long-term care providers such as Emeritus to accept emergency placements under certain circumstances

In Tracy, we understand that a few such charts did not contain completed forms; however, we disagree that California regulators “substantiated” the allegations of former Emeritus employees through their investigation of the Tracy community. Regarding 602 forms, regulators have determined that the decision to admit without a 602 was acceptable because the physician evaluations had been reviewed by a vice-president-level manager. The DSS report is clear on this.

Emeritus has 30,000 employees in more than 480 communities who care for more than 40,000 residents nationwide. Emeritus painstakingly endeavors to comply with both the letter and the spirit of all applicable laws and regulations, including those relating to record-keeping. On occasion, there may be instances in which a resident’s chart does not contain completed forms or is misplaced, in which case we may be administratively cited until corrective action is taken.

4. When state analysts visited the Tracy facility they requested seven files; facility staff could only provide them with four. What happened to the other three files? Why was Emeritus unable to provide them promptly?

Without more details, we were not able to determine why this occurred by your deadline. Title 22 requires that records shall be retained for a minimum of three years following termination of service to the resident. We do not know if the requested records fall within this time span.

5. In a civil suit and in testimony during the Boice trial, former Emeritus employee Lisa Paglia alleged that a former Emeritus manager instructed company employees to admit residents without the LIC 602 form. How does the company respond to Paglia’s allegations?

We deny the allegations. All Emeritus employees are encouraged to report concerns about resident care to senior management or, if they are uncomfortable in doing so, they may report anonymously to our Ethics First hotline. Ms. Paglia neither filed a complaint with senior management nor registered a complaint with the Ethics First hotline.

Regarding 602 forms, regulators have determined that the decision to admit without a 602 was acceptable if the physician evaluations had been reviewed by a vice-president-level manager. The DSS report is clear on this. As noted above, regulatory authorities have

recognized that there are occasional unusual urgent situations where there is the need to accommodate a family by admitting a resident and then obtaining the 602 later.

6. During the Boice trial, an exhibit was introduced that seemed to track the increased revenue Emeritus could generate by admitting residents with more needs, or by raising the level of care given to existing residents. Former supervisor Doris Marshall testified that she was directed to help move in residents with higher care needs by 75 percent by December 2008, in order to hit company financial targets. Is this true?

No. Emeritus does not employ any sales methods or directives that are intended to encourage staff to recruit residents with more acute care needs. As an industry, we're seeing a trend of people delaying the decision to transition to senior living, possibly due to the struggling economy. The result is that the average age of individuals entering senior living communities is significantly older – and in need of more care – than they were a few years ago. Because of this, our public education efforts focus on promoting an earlier transition to an Independent Living community before any health conditions put the senior at risk in their home. Toward this end, our outreach programs are designed to promote the benefits of senior living with respect to socialization, engagement and peace of mind even in the absence of significant physical assistance needs.

7. Doris Marshall testified that Emeritus made a concerted effort to move in more residents with dementia because they could be charged more. Is this true?

No. We are passionately committed to our mission — to providing seniors with independent living, assisted living, memory care services and skilled nursing services. We promote our memory care services in the same way we promote our independent and assisted living services. Our capacity to provide these services is different in each community and that capacity drives our ability to respond to consumer and resident needs. Like any business, we seek to operate at or near capacity in order to serve the greatest number of seniors in need of our services and to ensure that our business is sustainable in the long run.

8. Another Emeritus document showed that a company manager was seeking to keep the move-outs at the company's Northern California facilities below 3.5 per month. Does Emeritus set move-out targets for its executive directors or other employees?

This emphasis on tracking and minimizing move-outs is only intended to address preventable move-outs – such as a resident or family who may be dissatisfied with any aspect of the service they are receiving or their living environment. Preventing these move-outs simply means that we need to resolve any issues with families so they want to continue to reside with us. Non-preventable move-outs are those in which we determine that a person's level of need is beyond the level of care that we can provide or that the person would be better served in a skilled nursing facility or other community. Under our

Safely Somewhere program, we facilitate access to appropriate resources for all seniors, whether they are in their own homes, in an Emeritus community or elsewhere.

9. Former Emeritus employees testified in the Boice trial that death was only acceptable reason for a resident to move out. Former employees we've interviewed also say they were told this. Have Emeritus executives at any level ever told company employees that death is the only acceptable reason for a move-out?

No, of course not. There are strict company policies and state regulations that outline very clearly when a resident is appropriate for admission or required to be transferred to a higher level of care. As noted above, if we determine that a person's level of need is beyond the level of care that we can provide, and that he or she would be better served in a skilled nursing facility or other community, we work with that person and, where appropriate, the family to locate the right option, reflecting our "Safely Somewhere" philosophy. You can see this philosophy carried out every day in our communities, and in our nationwide public service campaigns.

10. Emeritus documents show employees using the term "close the back door." Doris Marshall testified that her primary job responsibility was "what they consider to be 'closing the back door', um, monitoring move-outs, you know, assisting with move-ins in the community was the biggest part." What do Emeritus employees mean when say, "close the back door?"

"Close the back door" is a term used commonly throughout the senior living industry. Emeritus employees may use the term to highlight the importance of providing a high quality of service to residents to ensure that the residents do not choose to move out because they are dissatisfied with customer service or any aspect of their lifestyle or situation at Emeritus. We do monitor move-outs so that we can identify and correct any issues and enhance resident satisfaction.

11. Doris Marshall and many former employees we've interviewed say Emeritus pressures employees to keep the facilities as close to filled as possible. Does Emeritus agree with this characterization?

We do not agree with the characterization that "Emeritus pressures employees." Emeritus needs to maintain a certain occupancy rate to keep the community operating successfully and the staff fully employed. As a result, we seek to achieve high occupancy by residents whose care needs match the types and levels of service we provide so that we can continue to operate efficiently and provide service of the highest quality and value to seniors and their families.

12. Between 2007 and 2011, 18 Emeritus facilities in California were cited for admitting or retaining residents who, in the eyes of state regulators, should not have been dwelling in assisted living facilities; eight facilities were cited repeatedly for this type of violation. Why have Emeritus facilities repeatedly committed these

violations? Do these citations reflect the company's policies or culture when it comes to admitting and retaining residents?

We disagree with your assessment of these citations and they do not reflect the company's policies nor its culture. Where there were multiple violations, Emeritus took aggressive actions to remedy the situation where warranted, and address the performance of the individuals involved. Citations may be issued for a number of reasons, including the following:

- Different interpretations of regulations by different regulators;
- Misinterpretation of regulations by the Executive Director or the Resident Care Director;
- Our failure to apprise regulators of all the circumstances associated with a resident's condition, including physician recommendations, home health services being provided, for example.

13. During the same time period, three Emeritus facilities – Emeritus at Escondido, Emeritus at Hazel Creek, and Emeritus at Villa del Rey – were cited by state officials in the deaths of residents.

Unsure what information is needed here.

14. In Escondido, the resident died after developing dehydration and sepsis, according to state documents. How does the company respond to state regulators' finding in this case? Did Emeritus' care play a role in this death?

Please refer to the Escondido licensing report dated 12/29/2009, which states that the allegation was unfounded and that the resident, who was an independent living resident, was taken care of appropriately. It is also important to note that this resident's religious preference necessitated that she decline medical attention.

15. At Hazel Creek, the resident died after developing pressure ulcers and sepsis, state documents show. How does the company respond to state regulators' finding in this case? Did Emeritus' care play a role in this death?

This incident, which took place four years ago, resulted from a lack of proper communication among the resident's caregivers, the executive director and the home health agency. This communication break-down led to a very unfortunate and unacceptable assessment error; and because of the error, Emeritus immediately implemented increased staff training on documentation with respect to change of condition, acceptance and retention of residents, and prohibited health conditions. We also hired a licensed vocational nurse in addition to the clinician on staff.

16. At Villa del Rey, the resident – who had multiple psychiatric diagnoses and a history of suicide attempts – committed suicide. How does the company respond to state regulators' finding in this case? Did Emeritus' care play a role in this death?

No, we did not play a role in this resident's death. While she was a resident at our Villa del Rey community, the resident was under the care of her personal psychiatrist. The medical chart notes indicated that she was not considered a suicide risk by her treating psychiatrist.

The resident thrived for 2½ years while living at Villa Del Rey. She frequently went out of the community for weekend visits with family, which required that medications be sent with her (with her physician's permission; the community had a physician order that indicated "OK to send medication with resident") and the resident frequently picked up prescriptions (with family) from the pharmacy, giving her access to pills/medication.

It appears that, while having such access to medication, this resident may have stock-piled a collection of pills and subsequently overdosed on the medication. An empty bottle of prescription medication was found by police in her apartment. The community was unaware that the resident had purchased this medication while out of the community.

It is important to note that there was no relationship between the state's findings in this case and the circumstances of the resident's death. The state claimed that the community was obligated to preclude the resident's access to medication but failed to do so. While Emeritus did manage her medications at the community, we were not responsible for, nor could we control, her actions in obtaining drugs while off the premises and bringing them back without our knowledge, then using them to take her own life.

17. Do these deaths indicate that the company's move-in and move-out policies have created an unsafe environment, one in which the company admits or retains residents who need skilled nursing care or psychiatric care?

No. Emeritus has comprehensive systems and very clear policies to evaluate whether we are able to meet each resident's care needs as they may change over time. In fact, we employ a clinician at each community to ensure that care decisions, including acceptance and retention decisions, are made by a clinician and not by other caregivers. In addition, when we decide we can't accommodate a resident's care needs, our Safely Somewhere philosophy necessitates that we find them the appropriate care and living environment, whether or not they end up in an Emeritus community.

18. We've examined several incidents in which Emeritus residents with cognitive impairment assaulted other residents, sometimes with fatal results. What is the company doing to prevent these kinds of attacks?

Prevention begins even before a resident is admitted. We ask the resident's family and physicians to tell us about any existing behavior issues as part of our pre-admission assessment. The goal is to determine if our setting can appropriately care for this person or whether we need to work with the family to identify other arrangements that would be more suitable.

Having cared for thousands of people with dementia over many years, we know that the associated behaviors can be unpredictable. While we strive to ensure resident care and safety on a daily basis, occasional outbursts and incidents may occur after the resident moves in, even if there is no documented history of them taking place previously. While we respect the family's and resident's choice to live as independently as possible, we do acknowledge that there are times when a resident can become a danger to themselves or others.

We handle these issues much like any physical change of condition – with a thorough evaluation and treatment to stabilize the individual's overall health and cognitive status.

Consistent with our home-like setting, we do not utilize chemical or physical restraints or social isolation to manage behavioral health issues. We work with an interdisciplinary team of health care professionals and physicians to promote the best possible quality of care and life for individuals exhibiting aggressive behavior issues.

We use a variety of methods to separate, divert and calm residents who get agitated; however, behavioral issues and incidents are occasionally spontaneous, unprovoked and unpreventable. If the behavior becomes more than our safety and care measures can manage, alternate placement or discharge is made to safeguard our residents and staff.

19. Our understanding is that Emeritus is appealing \$300 in civil monetary penalties assessed by California officials on 2/4/2011 regarding the death of a resident at Emeritus at Escondido. Why is the company appealing these fines?

We are appealing the civil money penalties in this case because we were not at fault for this extremely unfortunate and unforeseeable accident (where a resident inadvertently reversed his electric wheelchair onto a staircase and fell down the stairs). There is no evidence that Emeritus at Escondido caused or contributed to this tragic incident in any way. In fact, a special investigator commented to a member of the community's management staff that there was no evidence that Escondido caused the accident, yet his department "had" to cite deficiencies because "it's political." Because the regulations do not authorize issuing deficiencies on the basis of political pressure and because Escondido did not cause or contribute to the accident in any way, these deficiencies are legally improper and therefore are being appealed.

20. In general, does the company feel the regulatory process in California is fair and impartial? What about other states?

We do believe that the California regulatory process is fair. We think state regulation is important and we welcome state inspections to give us report cards on how we are doing. There are times when we don't agree with the evaluations and we let that be known. In the end, we seek to have open communication with state regulatory authorities and we work collaboratively with such authorities to achieve the same goal – a safe, healthy and helpful environment for seniors.

In California and a few other states, Emeritus is lobbying for more – not less – regulation to ensure that our communities and all others in the state are being inspected on an annual basis and held to a consistent standard. Until that occurs, we will continue to utilize our own regional oversight process. We routinely conduct two types of site visits in our communities – a Comprehensive Process Review (CPR) site visit and the Quality Services (QS) Site Visit. The CPR visits utilize a state-specific tool that evaluates every aspect of community operations and outlines the areas that require closer oversight. The QS Site visit is focused on systems implementation and ongoing compliance and integrity assessments in order to identify opportunities and suggest next steps for process improvement and overall compliance.

21. During the Boice trial, your attorney said the merger between Summerville and Emeritus had been bumpy initially and attributed the problems at Emerald Hills to the complexities of the merger. Is that your position?

While we would not characterize the merger as “bumpy,” it is possible the merger transition affected operations at Emerald Hills for a period of time. Emeritus has had two major acquisitions in the last five years. In 2008, Emeritus merged with Summerville Senior Living, which consisted of 81 communities, and in 2010, a joint venture managed by Emeritus acquired 144 communities from Sunwest Management, which had filed bankruptcy. In significant transactions of this nature, a company experiences cultural and procedural changes. In the Summerville and Sunwest transactions, we committed the resources to facilitate a smooth transition. Nevertheless, the new policies, care approaches, procedures, training and culture that our 20,000 employees needed to absorb could not happen overnight. We are now seeing the results of our dedication to quality improvement as we watch our deficiencies trend down significantly over the last five years.

22. California regulators have repeatedly cited Emeritus for violations linked to the deaths of seniors in your facilities. Three of those fatalities occurred in 2010 and 2011, well after the merger. Why, in your view, is the company continuing to be cited for these kinds of violations?

We strongly disagree with the characterization of Emeritus as “continuing to be cited for these kinds of violations.” The death of a resident is a personal loss for his or her family, community and caregivers. If one of those losses is tied to a violation, it is an extreme exception. Our mission is to care for one of the most fragile populations in society. There are risks associated with that care. Families and residents are made aware of those risks and are advised that we do not provide 24/7 one-on-one care. Still, every reasonable precaution is taken and there is strict adherence to every code and policy to ensure residents’ safety. If an accident occurs, we move quickly to investigate and resolve any issues. As a result, in California and nationwide, our quality is continually improving as shown in documentation provided to Frontline.

23. Testifying in the Boice trial, former med tech Jenny Hitt said that she covertly treated Joan Boice’s pressure wounds. Does the company dispute this testimony?

Yes, Emeritus disputes the testimony of former Med Tech Jenny Hitt. Ms. Hitt's testimony that she covertly treated Joan Boice's pressure wounds is not only improbable, but has no basis in fact. During the time period that Ms. Hitt claims to have covertly treated Ms. Boice's wounds, Ms. Boice was seen by multiple providers, including her primary physician, Dr. Awan, Kaiser nurses, and therapists. None of them reported seeing pressure wounds when Ms. Hitt claims to have treated them. Furthermore, the dressing supplies and medications used to treat these types of wounds require a physician's prescription; no such prescription was issued during the timeframe that Ms. Hitt claimed to have been treating Ms. Boice. We believe that Ms. Hitt's recollection is mistaken.

24. Attorneys for the Boice family argue that Emeritus didn't conduct a proper evaluation of Joan Boice, but relied on the evaluation done by The Palms. Does the company agree with that contention?

No, we do not agree with this contention. Emerald Hills conducted a proper resident evaluation of Mrs. Boice upon move in by Margaret Stevenson, R.N., Resident Care Director. Emeritus supplemented The Palms evaluation process by utilizing feedback via verbal communication with The Palms. Mrs. Boice's daughter-in-law reviewed and initialed the evaluation.

25. Did Emeritus create an adequate – and consistently updated --- care plan for Joan Boice?

Yes. Three care plans, initial and updated, were maintained within our database. The plan of care was developed and updated accordingly for Mrs. Boice, both manually and electronically, by a licensed nurse. Services rendered during the course of her stay were consistent based on her care needs and overall health condition as evidenced by staff interaction and collaboration with several health care professionals and health care providers.

26. During the Boice litigation, the company turned over documents indicating that no staffers were assigned to the memory care neighborhood on five nights during a time period of a little more than two months. During punitive phase closing statements, Emeritus attorney Bryan Reid said: "Clearly we could not prove that all the shifts were filled as intended, or maybe even as required." Does the company acknowledge that there were no employees working on those overnight shifts? If not, does the company have any proof that employees worked in the memory care unit on those shifts?

No. This is a lack of documentation, rather than a lack of staffing. Sworn trial testimony verifies that employees were working overnight. An Emerald Hills staff member testified under oath that there were never fewer than three memory care caregivers on any night shift – two caregivers and one Med Tech.

27. During the time that Joan Boice was at Emerald Hills, did the company employ enough staff at the facility?

Yes. Testimony from both plaintiff and defense witnesses in this trial affirmed that at no point during this time did resident care needs go unmet.

28. Are the staffing levels adequate at Emerald Hills today? What does the company consider to be an appropriate number of staff for the facility?

Yes, staffing levels at Emerald Hills meet the needs of our residents in that community. Staffing at Emerald Hills is determined by the number of residents we have in each care neighborhood, and the level of care our residents require, consistent with state regulations. As a result, staffing needs are assessed and adjusted frequently, depending on the change in all these criteria. In May of 2013, the community had 7 Med Techs, 24 Resident Assistants, 1 full-time Resident Care Director (nurse), 1 full-time Wellness Coordinator, and 1 full-time Memory Care Director. Shortly after the verdict in the Boice case in March 2013, Emeritus at Emerald Hills received a deficiency-free survey from the state with this staffing level.

29. An internal email shows that Emeritus cut the number of med techs at the facility down to one per shift. Interviews and sworn testimony also indicate that for a time Emerald Hills only had one med tech on duty on the second – from afternoon to night – shift. Can one person handle the medications for a facility of that scale?

Yes. Again, the number of Med Techs per shift is determined by the number of residents we have in-house at any given shift and their care needs. Assisted living involves assistance with medication management vs. administration of medication. The quantity of residents requiring assistance with medication management during afternoon/evening hours is significantly less than morning time. This staffing pattern of Med Techs is typical within the industry.

30. How many med techs are working at the facility per shift today?

The quantity of Med Techs working at the facility per shift today is dependent on the quantity of residents requiring assistance with medication management and the amount of time necessary to provide the assistance. As a result, the staffing varies day-to-day or week-to-week. Currently, the community provides one medical technician in the assisted living neighborhood and one in the memory care neighborhood per shift. On the night shift, these neighborhoods share a Med Tech. Emeritus at Emerald Hills received a deficiency-free survey from the state in March 2013 with this staffing level.

31. Former employees we've interviewed say the drive for profitability plays a substantial role in setting staffing levels in Emeritus facilities. Is this true? How does the company determine the number of staffers it should employ at any given building?

Our staffing levels are not related to Emeritus' profitability. As noted above, staffing is determined by the number of residents we have in each care neighborhood, the level of care our residents require, and our staff's ability to meet those needs, consistent with state regulations. This means that staffing needs are assessed and adjusted frequently, depending on any changes in these criteria. Executive Directors at each community have the authority to increase staffing as needed. Staffing formulas are not the best way to provide adequate care to residents. In addition to the appropriate number of staff to meet residents' needs, it's the experience and skill level of the staff who are providing the care that determines the quality.

32. Former employees have told us that during the final month of each quarter, company executives instruct supervisors to cut costs – with labor being the largest cost – at facilities that are not hitting their financial targets. We are told this is done so the company can bolster its quarterly financial results. Is this true?

No Emeritus executive or any manager at any level communicates such a directive with the purpose of affecting quarterly financial results. We manage labor and overall variable cost up or down depending on whether our resident census or level of acuity changes. That being said, this would occur at the local community level in conjunction with the Executive Director and the Regional Director of Operations.

33. Former divisional executive Susan Rotella has testified under oath that she was directed to cut labor costs in the California division by 10 percent across the board. Is this true? And if so, it is it possible that these cuts diminished the quality of care given to Emeritus residents?

Ms. Rotella's testimony was not true and was without foundation. Unfortunately, it is another accusation without any documentation, evidence, or even another person present to verify the conversation. Emeritus would not enact across-the-board labor cuts at the expense of our residents' care needs.

Without question, our staffing levels need to be in compliance with state regulations and, in many cases, Emeritus exceeds those regulations depending on the level of care required by residents at each individual community.

At Emeritus, our "bottom line" is that every resident must have his or her care needs met. That is our top priority.

34. Budgie Amparo has testified that Emeritus doesn't have a staffing formula or ratio. Is this true? If so, why not?

Yes, it is true that we do not have a staffing formula because a template staffing formula would not serve our residents' best interests. Such a formula would not account for all of the criteria that need to be considered beyond sheer numbers – such as the specific skills and experience of the staff, the number of residents we have on any given day, the level of care and services those residents require, the size and layout of the community, and the

ability for our staff to meet the residents' care needs, which ultimately determines the quality of the care provided.

Because the Executive Directors at each community are in the best position to consider all of these factors, consistent with state regulations, they have the authority to increase staffing to such levels as they deem appropriate under the then-existing circumstances. As noted above, the bottom line is every resident must have his or her care needs met.

35. Former employees say both the Vigilant system and the wE Care system can calculate the number of staff hours each building should be budgeting. However, these ex-workers say the company does not use this labor-calculating tool. Is this true?

We do not rely solely on such systems to determine staffing levels even though the systems are capable of providing an indication. As we stated in question 34, we do not use a staffing formula. We utilize the wE Care system, which was launched in 2011, to provide us with one reference point in determining appropriate staffing levels based on the number of residents, state regulations and the level of care and service required for residents we have in each community at any given time. However, our staffing level determination also considers the skill and experience of the staff on duty at any particular time.

36. In court testimony and interviews, former employees have described weekly phone calls at the divisional and regional levels. Many of these employees say these phone calls focus almost exclusively on financial metrics, not care. Is this true?

We do not know the motives of former employees who provided these groundless accusations to the plaintiffs' lawyer and the Boice family, but their description of weekly phone calls at the divisional and regional levels is simply incorrect.

Emeritus employs a collaborative team management (CTM) approach to our business. At Emeritus, CTM takes place, in part, through regular conference calls involving operations, quality services and marketing directors, all of whom have an equal, yet separate, function to address with their teams. During these calls, we discuss performance, which includes resident care and satisfaction as well as financial matters, marketing outreach, operating efficiencies, and any other pressing issues. Our CTM approach reflects our recognition that a community can only operate successfully if our operations, quality assurance and marketing efforts are running smoothly and in concert.

37. Testimony during the Boice case indicated that Alicia Parga and other memory care employees did not receive the legally required dementia training. Attorney Reid also acknowledged that there were "training deficits" at Emerald Hills. Does the company acknowledge that Parga and the other workers were not properly trained?

The statement that Attorney Reid acknowledged “training deficits” at Emerald Hills is incorrect and taken out of context. Each Emeritus employee is required to participate in ongoing training regimens that comply with Emeritus’ training policies and procedures as well as state regulation. The training issue that was brought up in the trial is more reflective of a lack of documentation, rather than a lack of training. While the training records at Emerald Hills did not reflect any particular type of training, that does not mean that there were training deficits. Since that time, we have implemented an online training platform that allows us to verify that all required training has been documented.

38. During the Boice trial, Alicia Parga acknowledged that she did not know the stages of dementia while she was employed at Emerald Hills. What does this indicate about the adequacy of her training?

Despite Alicia Parga’s testimony that she did not know the formal clinical stages of dementia, she demonstrated an ability to meet the needs of the residents in the memory care neighborhood. She also demonstrated a caring attitude in her notes to the skilled nursing facility indicating how best to meet the needs of Joan Boice. Demonstrated behavior of meeting the needs of residents — rather than the ability to recite the clinical stages of dementia — reveals adequate training.

39. When deposed regarding the Boice matter, former Emeritus supervisor Catherine Ratelle said Joan Boice probably should not have been admitted to Emerald Hills, given her needs. How does the company respond to this statement? Should Emerald Hills have accepted Joan Boice?

Ms. Ratelle never met Mrs. Boice and thus never made a firsthand evaluation of her condition. In fact, Mrs. Boice met all the criteria for residing at an assisted living community and that was substantiated by her treating physician, her family, the staff at her previous residence, and the assessment administered by the Emerald Hills nurse. Mr. and Mrs. Boice moved to Emeritus from another assisted living community at the request of their family because they were dissatisfied with their prior living arrangements.

40. At trial and in depositions, former Emerald Hills employees testified that they had little time to do activities with residents in the dementia neighborhood. Alicia Parga’s testimony seemed to indicate that she had no budget for activities. Is this accurate? Did Emeritus honor its promises to families in regard to providing these activities?

Emeritus did and continues to honor its promise to families. As one former and one current Emerald Hills employee testified in the trial, the activities at that time included singing, dancing, piano playing, storytelling and balloon toss to aid fitness, among other things.

40.5 In the view of Emeritus, did pressure sores that Joan Boice developed at Emerald Hills contribute to her death?

Mrs. Boice was suffering from end-stage Alzheimer's, coupled with a series of strokes. Mrs. Boice's life expectancy was severely limited by these conditions and other co-morbidities, including skin breakdown and loss of ability to swallow, that resulted in a terminal medical condition known as failure to thrive. Mrs. Boice's ultimate cause of death was heart failure and stroke.

41. The company, in testimony and court papers, has put forth the view that Joan Boice died as a result of a failure to thrive. Is this accurate?

Mrs. Boice was suffering from end stage Alzheimer's, coupled with a series of strokes. Mrs. Boice's life expectancy was severely limited by these conditions and other co-morbidities, including skin breakdown and loss of ability to swallow, that resulted in a terminal medical condition known as failure to thrive. The cause of her death was verified by our expert clinician, Dr. John Fullerton, who testified that, due to the nature of her multiple co-morbidities, she lived out her entire life expectancy.

42. Shortly before Joan Boice died, Emerald Hills filed a death report with the state indicating that a resident had died of sepsis. What were the circumstances that led to this resident's demise?

Without more details, we were not able to obtain the information on this resident (before your deadline).

43. Former Emerald Hills employees have told us that a female resident urinated in the hallway of the memory care wing on a regular basis. Is this true? If so, what should the company have done about this behavior?

Yes, this is true and staff took many steps in addressing it. It is a reality that dementia can cause an individual to experience incontinence or other issues involved with bowel and bladder control. The staff was extremely aware of this resident's situation and followed procedure in addressing it. They even had a special undergarment produced for this resident that would help contain this issue and protect her dignity.

Our staff is trained on how to address this common occurrence in our memory care neighborhoods. We start by trying to discover the root cause – whether it's the inability to recognize the need to go to the bathroom, an inability to locate the restroom, an inability to recognize the toilet and understand what it is used for, or even medications they may be taking. If we discover the cause, we can often work proactively to get the resident to use the restroom before any problem occurs. However, even with the best proactive plans, someone might still urinate in a public place. If and when this happens, our response would be to first provide the resident with dignity. So, we would try to distract and remove other residents from the area to provide her privacy and not to embarrass her. Then, we would try to assist her safely – place her clothing back on, walk her to her room, for example. – all while talking to her soothingly, never scolding or correcting. Finally, we would immediately clean the area.

44. Nurses at all levels of the company have told us they were required to engage in marketing and sales activities. Are these appropriate responsibilities for nurses?

It is very appropriate and important for nurses to be involved in responding to inquiries from families, give residents and families tours of our communities or visit prospective residents in their homes. This is because it helps families to determine exactly how the care will be provided and have their questions answered by the professional in charge. In fact, the failure to include a nurse in this process would be a disservice to the prospective resident and his or her family, because it would be leaving out a crucial piece of information for families who want to know exactly who provides the care and how.

45. During the Boice trial, Doris Marshall was asked the following question: “Over the course of your employment at Emeritus did you come to learn that it was expected of you to cover up mistakes that happened in the clinical side of care in Emeritus facilities?” She answered “yes.” Is it true that Emeritus employees have covered up mistakes in clinical care? What steps, if any, has the company taken to make sure this does not happen?

This statement, along with much of the testimony given by Doris Marshall, is false. No formal or informal policy at Emeritus has ever required, directly or indirectly, that mistakes be covered up or otherwise hidden. We have a significant number of checks and balances in place, including our Ethics First hotline, to ensure that the care we are providing thoroughly addresses the medical issue and is documented.

Emeritus has professionals in operations, quality and community relations who work collaboratively at every level of the organization. Twelve experts provide oversight to each community at the community, regional, division and home office levels. With this collaborative and layered approach, there is very little opportunity for community staff members to cover up care issues.

It is also worth noting that Ms. Marshall, a Registered Nurse licensed in the State of California, is required under her professional code of conduct to report any alleged clinical mistake. We assume that she would have fulfilled her reporting obligation if she became aware of any such mistake.

46. Doris Marshall testified that Emeritus supervisor Lisa Hulse directed employees to operate in the “gray areas” of California’s Title 22 regulations. Internal documents suggest that other employees also got this message. How does not company respond to these statements? What is its policy toward Title 22 regulations?

Emeritus strives to achieve consistent regulatory compliance. In reality, however, regulations in every area of the law, including those addressing the assisted living industry, contain gaps and inconsistencies. The context of the discussion surrounding “gray areas” pertains to the occasional vagueness in the regulations that leaves room for interpretation with the DSS regulators. This matter of achieving consistent interpretation

of the regulations throughout the industry has been a matter of much discussion between the providers of assisted living services and the DSS Licensing Program Managers on numerous occasions. We recognize that regulations have been evolving along with the demand for assisted living services, and we will continue to work with state agencies to clarify regulations.

47. People we've interviewed say residents at Emerald Hills were sometimes left in urine-soaked clothes for hours and that their soiled clothing and linens weren't properly washed and cleaned up. Is this true?

This statement is blatantly false. As one of our long-time caregivers at Emerald Hills testified in the trial, Emeritus has very clear expectations for incontinence care and laundry standards. This witness gave an extremely accurate account of the dignity our caregivers afford residents who are incontinent.

48. Did Emerald Hills staffers contact Joan Boice's doctor after noting she had a "pressure ulcer/wound" on her foot?

On October 14, 2008, Emerald Hills' medical technician, Nanette Read, contacted Mrs. Boice's physician to notify her that Mrs. Boice was having trouble bearing weight on her right foot. When Dr. Awan saw her on Nov. 4, 2008, she noted in the chart that Mrs. Boice's foot condition was a bunion – not a pressure wound or bed sore. The doctor wrote an order to have Kaiser Home Health evaluate Mrs. Boice for skilled services for unrelated medical conditions.

49. Did Emerald Hills take the proper measures to prevent Joan Boice from developing pressure sores?

Yes. Emerald Hills staff contacted Dr. Awan when they noticed she had trouble bearing weight on her right foot. Dr. Awan then ordered an assessment by a home health team to address other medical issues. Our caregivers worked hand-in-hand with the outside home health providers in the prevention and treatment measures that Mrs. Boice required. This multidisciplinary team included her case manager, home health nurses and rehab staff, and our care staff. The Boice family retained the services of this home health team to help in their mother's elevated care needs so she would be able to stay in the community with her husband.

50. Did employees at Emerald Hills have training in preventing and identifying pressure sores?

Yes. Their training was also complemented by the presence of a staff nurse at the community. When appropriate, outside home health and wound care clinicians are brought into the community to treat residents and provide additional staff training.

51. Did Emerald Hills respond properly when Boice developed pressure ulcers?

Yes. We worked closely with her home health team and physician on prevention and treatment measures.

52. The Boice family says they were offered \$3.3 million to settle their suit, with the condition that all company documents, depositions, and other discovery would be given to Emeritus or shredded, and that the court files would be sealed. Is this accurate?

This question is indicative of the outrageous plaintiff's tactics and broader legal appeal issues of the case. The fact that the plaintiff has made court-ordered confidential negotiations public is completely unethical and an attempt to insinuate that Emeritus agreed with the Boice position simply by the act of negotiating an offer.

Having been ordered by the court into confidential mediations, Emeritus, at the court's request, negotiated in good faith – and confidentially, as required. It is important to point out that the allegation that Emeritus conditioned a settlement offer on an agreement to shred documents or seal the court file is completely false.

So the question should be asked of the plaintiff, what was their purpose in disclosing false information and confidential negotiations to Frontline?

53. Dorothy Bullock died after a series of falls at Emerald Hills. Did the facility take all reasonable steps to prevent her from falling?

Without more details, we were not able to obtain the information on whether or why this occurred (before your deadline).

Regarding falls in general, while there is much that our communities can do to manage fall risks, the reality is that falls are frequently spontaneous and – short of holding onto a person all day long, which would be demeaning and stifling to the body and spirit of the individual – there isn't any fool-proof way to prevent falls.

The Centers for Disease Control states that one out of three adults age 65 and older falls each year and they are the leading cause of injury and death. It is simply impossible to **eliminate** falls in the senior population; nevertheless, Emeritus has developed many methods to manage and reduce fall risks based upon national research and evidenced-based approaches to fall management and prevention. These methods also take into account the importance of quality of life for the resident.

We do this through extensive staff training, ambulatory and mobility evaluations, and weekly staff meetings to review falls.

For residents whose medical diagnosis puts them at higher risk for falls, we put additional specialized care plans in place, and have detailed post-fall procedures to follow after a fall has occurred.

We also work closely with families and recommend ambulatory assistance devices for their loved one when we feel that they are no longer safe walking on their own due to their age or condition.

54. Agnes Fitch died after missing her diuretic medication for more than eight days while at Emerald Hills. Does the company believe this medication error played any role in her death?

This incident, which took place five years ago, was a distressing and unacceptable medication error. Emeritus settled with the resident's family, and we sincerely regret the pain and trauma they have experienced. This event led to a complete review of our medication systems at Emeritus.

This painful and distressing incident arose as a result of the failure of community staff at that time to follow our medication policies. As a result of the incident, we immediately launched an internal investigation at the community that included a full audit of residents receiving medication assistance. We inventoried medication on hand and refill histories, and found no other issues. We then designed a plan of correction at the community that included:

- Bringing on new nursing and medication management leadership so we would have more experienced oversight over these critical functions;
- Improving systems for tracking and having medications delivered;
- Improving our refill order practices to support structure, accountability and consistency;
- Adding training for medication care managers and medication techs on new systems; and
- In-servicing staff on ED notification requirements for any medication-related issues.

We also took this investigation to the next level and performed a comprehensive audit of all medication systems and processes across all Emeritus communities.

In late 2007, we also forged a partnership with Omnicare – a national pharmaceutical company – that added another level of oversight to our medication systems and helped us in our efforts to ensure accurate, safe and consistent medication administration.

55. Recently, Emeritus executives made plans to sell off shares of the company. Was the timing of the stock sales connected in any way to the timing of our report?

No.

56. Can Emeritus get the returns for investors that it wants while providing high quality care?

Yes. Senior living is a consumer-driven industry where people have a variety of options available to them. The success of any senior living business – or any consumer-driven business for that matter – is centered on excellent customer service and satisfaction. In our business, customer satisfaction is a result of providing great care and service from a compassionate team of employees, which will ultimately deliver trust and peace of mind to our residents and families. If we do this, then we achieve the customer satisfaction, reputation, and referrals that result in successful operations, thus meeting shareholder expectations in the end.